

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 7, 2004. Upon entry of the amendments in this response claims 1-47 are pending. More specifically, claim 44 has been amended. This amendment is specifically described hereinafter. It is believed that the foregoing amendment adds no new matter to the present application.

I. Claim Objections

Claim 44 was objected to for allegedly containing an informality. Applicants have amended claim 44 to remove the indicated informality. Accordingly, Applicants submit that the objection to claim 44 should be withdrawn.

II. Examiner Interview

The Office Action alleges that, in the telephonic interview of 5/25/2004, “Applicant’s representatives clarified that the first communications path is a telephone link from the subscriber to the headend, and the second communications path is the cable television link from the headend to the subscriber.” (Office Action, pg. 2).

Applicants wish to clarify that the interview discussion centered around general questions related to Applicants’ disclosure, and more specifically to an alleged inconsistency regarding “the first communication path.”

While the Applicants do not disagree that one possible embodiment may include that “the first communications path is a telephone link from the subscriber to the headend” and that “the second communications path is the cable television link from the headend to the subscriber,” the

scope of the embodiments actually set forth in pending claims 1 – 47 is ultimately defined by the language appearing in the claims themselves. Accordingly, Applicants do not intend to define “the first communications path” and “the second communications path” except as precisely recited in each of the embodiments captured in pending claims 1 – 47.

III. Rejection to Claims 1 – 9, 14 – 16, 21 – 22, 25 – 26, 34, 36, 38 and 40 Under Obviousness-Type Double Patenting

The Office Action rejects claims 1 – 9, 14 – 16, 21 – 22, 25 – 26, 34, 36, 38 and 40 as allegedly unpatentable over claim 1 of U.S. Patent No. 6,324,267 (the ‘267 patent) under the judicially created doctrine of obviousness-type double patenting.

Applicants submit that a terminal disclaimer has been previously filed to obviate a double patenting rejection over the ‘267 patent (*see* the “Response to Examiner’s Office Action mailed April 23, 2002”). Accordingly, Applicants submit that the double-patenting rejection to claims 1 – 9, 14 – 16, 21 – 22, 25 – 26, 34, 36, 38 and 40 as being unpatentable over claim 1 of U.S. Patent No. 6,324,267 has been addressed and is moot.

IV. Claims 1 – 47 are Patentable Over *Majeti* in View of *Kawashima*

The Office Action rejects claims 1 - 47 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,534,913 to Majeti (“*Majeti*”) in view of U.S. Patent No. 5,181,911 to Kawashima (“*Kawashima*”). For the reasons set forth below, Applicants respectfully traverse the rejection.

General Remarks

Before addressing each claim individually, Applicants believe a brief explanation of a fundamental distinction between the cited references and the invention set forth in Applicants' independent claims 1, 14, 21, 25, and 29 may be helpful. Specifically, Applicants submit that *Majeti* discloses no more than has been previously disclosed in Applicants' Description of the Relevant Art. Specifically, unlike Applicants' two-tiered authorization and authentication systems and methods, *Majeti* apparently discloses only a single authorization sequence. For example, *Majeti* discloses that "the ETHERNET interface is also used to carry users' messages to the processor, during session establishment (login) and tear down (logoff)," (col. 6, lines 15 – 17) and that "the database 96 contains system configuration data, equipment information, network addresses, session records, subscribers' information, ESP information, authentication keys, and routing information." (Col. 6, lines 17 – 20). This is apparently the sum total of the alleged authorization mechanism of *Majeti*.

Applicants acknowledge that *Majeti* apparently discloses two possible paths for return data (e.g. PSTN network 24 and cable 36). However, even assuming, *arguendo*, that *Majeti* discloses authorization to access PSTN 24 as alleged, *Majeti* does not appear to perform any type of further "authorization" (or "logging in" as in claim 29) for the alternate path responsive to a first authorization (or "level of service").

Accordingly, Applicants submit that *Majeti* can not disclose "*logic to authorize the subscriber to access a second communications path*" as recited in claim 1, "*authorizing the subscriber to access the second communications path*" as in claim 14, "*logic configured to*

authorize the subscriber to access the cable data network at the second level of service” as in claim 25, nor “*logging into the cable data network at a second level of service”* as in claim 29.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) any type of authentication mechanisms as part of the described system.

Independent Claim 1

Independent claim 1 recites:

1. In a cable data delivery network for delivering digital data to a host location upon a subscriber initiated request, apparatus for authenticating that the subscriber is authorized to use said network, said apparatus comprising:

a network manager including at least one database of authorized users and a validation agent, said validation agent further comprising:

logic to authorize the subscriber to access a first communications path by comparing first identification information with at least part of the at least one database, the first communications path providing at least a portion of connectivity between the host location and a head end of the cable data delivery network; and

logic to authorize the subscriber to access a second communications path responsive to the first communications path authorization, by comparing second identification information with at least part of the at least one database, the second communications path providing at least a portion of connectivity between the host location and the head end of the cable data delivery network.

(*Emphasis Added*). Applicants respectfully submit that claim 1 patently defines over the proposed combination of *Majeti* and *Kawashima* for at least the reason that the proposed combination of *Majeti* and *Kawashima*, in combination with the knowledge of one skilled in the art, fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

First, neither *Majeti*, nor *Kawashima* discloses, teaches or suggests the feature of “*logic to authorize the subscriber to access a second communications path*” as recited in independent claim 1.

Unlike the apparatus for authenticating that a subscriber is authorized to use a network of claim 1, *Majeti* discloses, at most, that “after establishing a two-way communication link between customer premise equipment 20 and a split channel bridging unit 18, the user transmits a code identifying enhanced service provider 10A as the source from which information will be sought.” (Col. 8, lines 49 – 53). Accordingly, even assuming, *arguendo*, that the enhanced service provider 10A requires some type of authorization, the alleged authorization is not to “access a second communications path” as recited in claim 1, but rather provides access to the enhanced service provider which, for example, may provide “travel information including high definition pictures of possible travel locations and stock market information about a particular stock.” (Col. 8, lines 41 – 44).

To further clarify this important distinction, said another way, enhanced service provider 10A does not appear to provide any determination as to whether its information is transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system. Rather “the router transmits at least a packet header to control processor 48 which makes the determination of whether to have the information transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system using the larger bandwidth channel carried by cable 36 to the user’s customer premise equipment 20.” (Col. 9, lines 22 – 28).

For example, *Majeti* discloses an example in which “a determination is made that the relatively small amount of data would be most efficiently handled and bandwidth conserved by the system by routing it via the modem and PSTN network.” (Col. 9, lines 29-32). Thus, the control processor apparently routes the information based on factors such as the “amount of data.” This “determination” based on the amount of data is not equivalent to the “*logic to authorize the subscriber to access a second communications path*” as required by claim 1.

Furthermore, *Majeti* does not appear to disclose, teach, or suggest any type of authorization beyond the initial login to establish the initial two-way communication link between customer premise equipment 20 and the split channel bridging unit 18 over the public switch telephone network.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) an apparatus for authenticating the subscriber is authorized to use a network including “logic to authorize the subscriber to access a second communications path” as recited in claim 1. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Majeti* and *Kawashima*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 1 should be overturned for at least this reason alone.

Even assuming, *arguendo*, that the proposed combination of *Majeti* and *Kawashima* discloses “logic to authorize a subscriber to access a second communications path,” claim 1 is patentable over *Majeti* and *Kawashima* for at least the additional reason that the proposed

combination does not authorize the access “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 1.

The Office Action apparently alleges that *Majeti* discloses the claimed feature of “comparing second identification information with at least part of the at least one database” in that *Majeti*, at col. 9, lines 56-66, discloses “the control processor checks its database and determines that bandwidth capacity is available for the picture information to be transmitted by cable distribution head-end 30N and cable 36” (*emphasis added*, col. 9, lines 54-57) and that “upon determining that sufficient bandwidth can be made available for this request, the control processor transmits command information to router 42 directing the router to transmit the packet along with additional packets containing related information via cable 44N to modulator 46N which modulates the data onto an RF channel on cable 28N. (*Emphasis added*, col. 9, lines 57-64). However, checking the database to determine “*that bandwidth capacity is available for the picture information to be transmitted*” is not equivalent at all to “*comparing second identification information with at least part of the at least one database*” as recited in independent claim 1.

Accordingly, *Majeti* does not disclose authorizing a subscriber to access a second communications path “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 1.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* alleges, teaches or suggests) an apparatus for authenticating the subscriber is authorized to use a network including logic to authorize the subscriber to access a second communications path “by comparing second identification information with at least part of the at

least one database” as recited in claim 1. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Kawashima* and *Majeti*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 1 should be overturned for at least this additional reason alone.

For at least these reasons, Applicants submit that independent claim 1 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 1 is believed to be allowable, dependent claims 2-13, 33-34, and 43 are allowable for at least the same reasons.

Independent Claim 14

Independent claim 14 recites:

14. A method of authorizing a subscriber to access a first communications path and a second communications path, the first communications path and the second communications path utilized in conveying data between a head end and the subscriber of a cable data network, the method comprising the steps of:

authorizing the subscriber to access the first communications path by comparing first identification information with at least part of at least one database; and

authorizing the subscriber to access the second communications path responsive to the first communications path authorization by comparing second identification information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 14 patently defines over the proposed combination of *Majeti* and *Kawashima* for at least the reason that the proposed combination of *Majeti* and *Kawashima*, in combination with the knowledge of one skilled in the art, fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

First, neither *Majeti*, nor *Kawashima* discloses, teaches or suggests the feature of “*authorizing the subscriber to access the second communications path*” as recited in independent claim 14.

Unlike the method of authorizing a subscriber to access a first communications path and a second communications path of claim 14, *Majeti* discloses, at most, that “after establishing a two-way communication link between customer premise equipment 20 and a split channel bridging unit 18, the user transmits a code identifying enhanced service provider 10A as the source from which information will be sought.” (Col. 8, lines 49 – 53). Accordingly, even assuming, *arguendo*, that the enhanced service provider 10A requires some type of authorization, the alleged authorization is not to “access the second communications path” as recited in claim 14, but rather provides access to the enhanced service provider which, for example, may provide “travel information including high definition pictures of possible travel locations and stock market information about a particular stock.” (Col. 8, lines 41 – 44).

To further clarify this important distinction, said another way, enhanced service provider 10A does not appear to provide any determination as to whether its information is transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system. Rather “the router transmits at least a packet header to control processor 48 which makes the determination of whether to have the information transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system using the larger bandwidth channel carried by cable 36 to the user’s customer premise equipment 20.” (Col. 9, lines 22 – 28).

For example, *Majeti* discloses an example in which “a determination is made that the relatively small amount of data would be most efficiently handled and bandwidth conserved by the system by routing it via the modem and PSTN network.” (Col. 9, lines 29-32). Thus, the control processor apparently routes the information based on factors such as the “amount of data.” This “determination” based on the amount of data is not equivalent to the feature of “***authorizing the subscriber to access the second communications path***” as required by claim 14.

Furthermore, *Majeti* does not appear to disclose, teach, or suggest any type of authorization beyond the initial login to establish the initial two-way communication link between customer premise equipment 20 and the split channel bridging unit 18 over the public switch telephone network.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) a method of authorizing a subscriber to access a first communications path and a second communications path including “***authorizing the subscriber to access the second communications path***” as recited in claim 14. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Majeti* and *Kawashima*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 14 should be overturned for at least this reason alone.

Even assuming, *arguendo*, that the proposed combination of *Majeti* and *Kawashima* discloses “authorizing the subscriber to access the second communications path,” claim 14 is patentable over *Majeti* and *Kawashima* for at least the additional reason that the proposed

combination does not authorize the access “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 14.

The Office Action apparently alleges that *Majeti* discloses the claimed feature of “comparing second identification information with at least part of the at least one database” in that *Majeti*, at col. 9, lines 56-66, discloses “the control processor checks its database and determines that bandwidth capacity is available for the picture information to be transmitted by cable distribution head-end 30N and cable 36” (*emphasis added*, col. 9, lines 54-57) and that “upon determining that sufficient bandwidth can be made available for this request, the control processor transmits command information to router 42 directing the router to transmit the packet along with additional packets containing related information via cable 44N to modulator 46N which modulates the data onto an RF channel on cable 28N. (*Emphasis added*, col. 9, lines 57-64). However, checking the database to determine “*that bandwidth capacity is available for the picture information to be transmitted*” is not equivalent at all to “*comparing second identification information with at least part of the at least one database*” as recited in independent claim 14.

Accordingly, *Majeti* does not disclose authorizing a subscriber to access a second communications path responsive to the first communications path authorization “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 14.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* alleges, teaches or suggests) a method of authorizing a subscriber to access a first communications path and a second communications path including authorizing a

subscriber to access a second communications path responsive to the first communications path authorization “*by comparing second identification information with at least part of the at least one database*” as recited in claim 14. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Kawashima* and *Majeti*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 14 should be overturned for at least this additional reason alone.

For at least these reasons, Applicants submit that independent claim 14 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 14 is believed to be allowable, dependent claims 15-20, 35-36, and 44 are allowable for at least the same reasons.

Independent Claim 21

Independent claim 21 recites:

21. An apparatus utilized in authorizing a subscriber to access a cable data network at a first level of service and a second level of service, the cable data network providing connectivity between a head end and the subscriber, comprising:

logic configured to authorize the subscriber to access the cable data network at the first level of service by comparing first identification information with at least part of at least one database; and

logic configured to authorize the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization by comparing second identification information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 21 patently defines over the proposed combination of *Majeti* and *Kawashima* for at least the reason that the proposed

combination of *Majeti* and *Kawashima*, in combination with the knowledge of one skilled in the art, fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

First, neither *Majeti*, nor *Kawashima* discloses, teaches or suggests the feature of “*logic configured to authorize the subscriber to access the cable data network at the second level of service*” as recited in independent claim 21.

Unlike the apparatus for authenticating that a subscriber is authorized to use a network of claim 21, *Majeti* discloses, at most, that “after establishing a two-way communication link between customer premise equipment 20 and a split channel bridging unit 18, the user transmits a code identifying enhanced service provider 10A as the source from which information will be sought.” (Col. 8, lines 49 – 53). Accordingly, even assuming, *arguendo*, that the enhanced service provider 10A requires some type of authorization, the alleged authorization is not “to access the cable data network at the second level of service” as recited in claim 21, but rather provides access to the enhanced service provider which, for example, may provide “travel information including high definition pictures of possible travel locations and stock market information about a particular stock.” (Col. 8, lines 41 – 44).

To further clarify this important distinction, said another way, enhanced service provider 10A does not appear to provide any determination as to whether its information is transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system. Rather “the router transmits at least a packet header to control processor 48 which makes the determination of whether to have the information transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system

using the larger bandwidth channel carried by cable 36 to the user's customer premise equipment 20." (Col. 9, lines 22 – 28).

For example, *Majeti* discloses an example in which "a determination is made that the relatively small amount of data would be most efficiently handled and bandwidth conserved by the system by routing it via the modem and PSTN network." (Col. 9, lines 29-32). Thus, the control processor apparently routes the information based on factors such as the "amount of data." This "determination" based on the amount of data is not equivalent to the "*logic configured to authorize the subscriber to access the cable data network at the second level of service*" as required by claim 21.

Furthermore, *Majeti* does not appear to disclose, teach, or suggest any type of authorization beyond the initial login to establish the initial two-way communication link between customer premise equipment 20 and the split channel bridging unit 18 over the public switch telephone network.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) an apparatus for authenticating the subscriber is authorized to use a network including "logic configured to authorize the subscriber to access the cable data network at the second level of service" as recited in claim 21. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Majeti* and *Kawashima*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 21 should be overturned for at least this reason alone.

Even assuming, *arguendo*, that the proposed combination of *Majeti* and *Kawashima* discloses “logic configured to authorize the subscriber to access the cable data network at the second level of service,” claim 21 is patentable over *Majeti* and *Kawashima* for at least the additional reason that the proposed combination does not authorize the access “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 21.

The Office Action apparently alleges that *Majeti* discloses the claimed feature of “comparing second identification information with at least part of the at least one database” in that *Majeti*, at col. 9, lines 56-66, discloses “the control processor checks its database and determines that bandwidth capacity is available for the picture information to be transmitted by cable distribution head-end 30N and cable 36” (*emphasis added*, col. 9, lines 54-57) and that “upon determining that sufficient bandwidth can be made available for this request, the control processor transmits command information to router 42 directing the router to transmit the packet along with additional packets containing related information via cable 44N to modulator 46N which modulates the data onto an RF channel on cable 28N. (*Emphasis added*, col. 9, lines 57-64). However, checking the database to determine “*that bandwidth capacity is available for the picture information to be transmitted*” is not equivalent at all to “*comparing second identification information with at least part of the at least one database*” as recited in independent claim 21.

Accordingly, *Majeti* does not disclose authorizing a subscriber to access a second communications path “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 21.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* alleges, teaches or suggests) an apparatus for authenticating the subscriber is authorized to use a network including logic to authorize the subscriber to access a second communications path “by comparing second identification information with at least part of the at least one database” as recited in claim 21. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Kawashima* and *Majeti*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 21 should be overturned for at least this additional reason alone.

For at least these reasons, Applicants submit that independent claim 21 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 21 is believed to be allowable, dependent claims 22-24, 37-38, and 45 are allowable for at least the same reasons.

Independent Claim 25

Independent claim 25 recites:

25. A method of authorizing a subscriber to access a cable data network at a first level of service and a second level of service, the cable data network providing connectivity between a head end and the subscriber, the method comprising the steps of:

authorizing the subscriber to access the cable data network at the first level of service by comparing first identification information with at least part of at least one database; and

authorizing the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization by comparing second identification information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 25 patently defines over the proposed combination of *Majeti* and *Kawashima* for at least the reason that the proposed combination of *Majeti* and *Kawashima*, in combination with the knowledge of one skilled in the art, fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

First, neither *Majeti*, nor *Kawashima* discloses, teaches or suggests the feature of “**authorizing the subscriber to access the cable data network at the second level of service**” as recited in independent claim 25.

Unlike the method of authorizing a subscriber to access a cable data network at a first level of service and a second level of service of claim 25, *Majeti* discloses, at most, that “after establishing a two-way communication link between customer premise equipment 20 and a split channel bridging unit 18, the user transmits a code identifying enhanced service provider 10A as the source from which information will be sought.” (Col. 8, lines 49 – 53). Accordingly, even assuming, *arguendo*, that the enhanced service provider 10A requires some type of authorization, the alleged authorization is not to “the cable data network” as recited in claim 25, but rather provides access to the enhanced service provider which, for example, may provide “travel information including high definition pictures of possible travel locations and stock market information about a particular stock.” (Col. 8, lines 41 – 44).

To further clarify this important distinction, said another way, enhanced service provider 10A does not appear to provide any determination as to whether its information is transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system. Rather “the router transmits at least a packet header to control processor 48

which makes the determination of whether to have the information transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system using the larger bandwidth channel carried by cable 36 to the user's customer premise equipment 20.” (Col. 9, lines 22 – 28).

For example, *Majeti* discloses an example in which “a determination is made that the relatively small amount of data would be most efficiently handled and bandwidth conserved by the system by routing it via the modem and PSTN network.” (Col. 9, lines 29-32). Thus, the control processor apparently routes the information based on factors such as the “amount of data.” This “determination” based on the amount of data is not equivalent to the feature of “***authorizing the subscriber to access the cable data network at the second level of service***” as required by claim 25.

Furthermore, *Majeti* does not appear to disclose, teach, or suggest any type of authorization beyond the initial login to establish the initial two-way communication link between customer premise equipment 20 and the split channel bridging unit 18 over the public switch telephone network.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) a method of authorizing a subscriber to access a first communications path and a second communications path including “***authorizing the subscriber to access the cable data network at the second level of service***” as recited in claim 25. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Majeti* and

Kawashima, one skilled in the art would not be motivated to make the proposed modification.

Accordingly, the rejection to claim 25 should be overturned for at least this reason alone.

Even assuming, *arguendo*, that the proposed combination of *Majeti* and *Kawashima* discloses “authorizing the subscriber to access the second communications path,” claim 25 is patentable over *Majeti* and *Kawashima* for at least the additional reason that the proposed combination does not authorize the access “*by comparing second identification information with at least part of the at least one database*” as recited in independent claim 25.

The Office Action apparently alleges that *Majeti* discloses the claimed feature of “comparing second identification information with at least part of the at least one database” in that *Majeti*, at col. 9, lines 56-66, discloses “the control processor checks its database and determines that bandwidth capacity is available for the picture information to be transmitted by cable distribution head-end 30N and cable 36” (*emphasis added*, col. 9, lines 54-57) and that “upon determining that sufficient bandwidth can be made available for this request, the control processor transmits command information to router 42 directing the router to transmit the packet along with additional packets containing related information via cable 44N to modulator 46N which modulates the data onto an RF channel on cable 28N. (*Emphasis added*, col. 9, lines 57-64). However, checking the database to determine “*that bandwidth capacity is available for the picture information to be transmitted*” is not equivalent at all to “*comparing second identification information with at least part of the at least one database*” as recited in independent claim 25.

Accordingly, *Majeti* does not disclose authorizing a subscriber to access a second communications path responsive to the first communications path authorization “*by comparing*

second identification information with at least part of the at least one database” as recited in independent claim 25.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* alleges, teaches or suggests) a method of authorizing a subscriber to access a cable data network at a first level of service and a second level of service including authorizing the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization “*by comparing second identification information with at least part of the at least one database*” as recited in claim 25. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Kawashima* and *Majeti*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 25 should be overturned for at least this additional reason alone.

For at least these reasons, Applicants submit that independent claim 25 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 25 is believed to be allowable, dependent claims 26-28, 29-40, and 46 are allowable for at least the same reasons.

Independent Claim 29

Independent claim 29 recites:

29. A method of logging into a cable data network that has a plurality of levels of service, the method comprising the steps of:
 - logging into the cable data network at a first level of service by sending first identification information to at least one validation agent; and

logging into the cable data network at a second level of service
responsive to logging into the network at a first level of service ***by sending second identification information to at least one validation agent.***

(*Emphasis Added*). Applicants respectfully submit that claim 29 patently defines over the proposed combination of *Majeti* and *Kawashima* for at least the reason that the proposed combination of *Majeti* and *Kawashima*, in combination with the knowledge of one skilled in the art, fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

First, neither *Majeti*, nor *Kawashima* discloses, teaches or suggests the feature of “***logging into the cable data network at a second level of service***” as recited in independent claim 29.

Unlike the method of logging into a cable data network that has a plurality of levels of service of claim 29, *Majeti* discloses, at most, that “after establishing a two-way communication link between customer premise equipment 20 and a split channel bridging unit 18, the user transmits a code identifying enhanced service provider 10A as the source from which information will be sought.” (Col. 8, lines 49 – 53). Accordingly, even assuming, *arguendo*, that the enhanced service provider 10A requires some type of “logging in,” logging into service provider 10A is not equivalent to “logging into the cable data network” as recited in claim 29. That is, *Majeti* discloses that the enhanced service provider is not “a cable data network,” but rather, may provide “travel information including high definition pictures of possible travel locations and stock market information about a particular stock,” for example. (Col. 8, lines 41 – 44).

To further clarify this important distinction, said another way, enhanced service provider 10A does not appear to provide any determination as to whether its information is transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system. Rather “the router transmits at least a packet header to control processor 48 which makes the determination of whether to have the information transmitted via the modem link over the public switch telephone network 24 or via the cable television distribution system using the larger bandwidth channel carried by cable 36 to the user’s customer premise equipment 20.” (Col. 9, lines 22 – 28).

For example, *Majeti* discloses an example in which “a determination is made that the relatively small amount of data would be most efficiently handled and bandwidth conserved by the system by routing it via the modem and PSTN network.” (Col. 9, lines 29-32). Thus, the control processor apparently routes the information based on factors such as the “amount of data.” This “determination” based on the amount of data is not equivalent to the feature of “logging into the cable data network at a second level of service” as required by claim 29.

Furthermore, *Majeti* does not appear to disclose, teach, or suggest any type of “logging in” beyond the initial login to establish the initial two-way communication link between customer premise equipment 20 and the split channel bridging unit 18 over the public switch telephone network.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) a method of logging into a cable data network that has a plurality of levels of service including “logging into the cable data network at a second level of service” as recited in claim 29. Rather, *Kawashima* does not appear to disclose

any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Majeti* and *Kawashima*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 29 should be overturned for at least this reason alone.

Even assuming, *arguendo*, that the proposed combination of *Majeti* and *Kawashima* discloses “logging into the cable data network at a second level of service,” claim 29 is patentable over *Majeti* and *Kawashima* for at least the additional reason that the proposed combination does not log into the cable data network at a second level of service “*by sending second identification information to at least one validation agent*” as recited in independent claim 29.

The Office Action apparently alleges that *Majeti* discloses the claimed feature of logging into the cable data network at a second level of service by “sending second identification information to at least one validation agent” in that *Majeti*, at col. 9, lines 56-66, discloses “the control processor checks its database and determines that bandwidth capacity is available for the picture information to be transmitted by cable distribution head-end 30N and cable 36” (*emphasis added*, col. 9, lines 54-57) and that “upon determining that sufficient bandwidth can be made available for this request, the control processor transmits command information to router 42 directing the router to transmit the packet along with additional packets containing related information via cable 44N to modulator 46N which modulates the data onto an RF channel on cable 28N. (*Emphasis added*, col. 9, lines 57-64). However, checking the database to determine “*that bandwidth capacity is available for the picture information to be transmitted*” is

not equivalent at all to “sending second identification information to at least one validation agent” as recited in independent claim 29.

Accordingly, *Majeti* does not disclose logging into the cable data network at a second level of service by “sending second identification information to at least one validation agent” as recited in independent claim 29.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* alleges, teaches or suggests) a method of logging into a cable data network that has a plurality of levels of service including logging into the cable data network at a second level of service by “***sending second identification information to at least one validation agent***” as recited in claim 29. Rather, *Kawashima* does not appear to disclose any type of authentication mechanisms as part of the described system. Additionally, based on the disclosures of *Kawashima* and *Majeti*, one skilled in the art would not be motivated to make the proposed modification. Accordingly, the rejection to claim 29 should be overturned for at least this additional reason alone.

For at least these reasons, Applicants submit that independent claim 29 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 29 is believed to be allowable, dependent claims 30-32, 41-42, and 47 are allowable for at least the same reasons.

Dependent Claims 2-13, 15-20, 22-24, 26-28, and 30-47

Applicants submit that the §103 rejection to dependent claims 2-13, 15-20, 22-24, 26-28, and 30-47 is rendered moot in light of any of the arguments made above and, therefore, claims 2-

13, 15-20, 22-24, 26-28, and 30-47 are allowable as a matter of law for at least the reason that claims 2-13, 15-20, 22-24, 26-28, and 30-47 contains all the features and element of its corresponding independent claim.

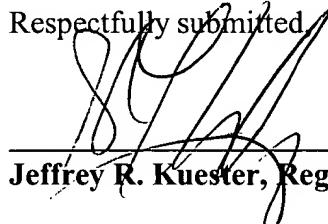
V. References Made of Record

The references made of record have been considered, but are not believed to affect the patentability of the presently pending claims. Other statements not explicitly addressed herein are not admitted.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-47 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



Jeffrey R. Kuester, Reg. No. 34,367

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500